

## ADMINISTRATIVE PROCEDURE

Personnel and Employee Relations

Teacher Hearings

PER #33

Reviewed: February 2025

### Background

The Board of Trustees of The Christ the Redeemer Catholic Separate School Division (“Board”) is committed to the principles of fairness and natural justice and has delegated to the Superintendent the responsibility to deal with all suspensions and terminations of teachers. In connection with that responsibility, the Superintendent shall conduct all hearings concerning the suspension or termination of a contract of employment of a teacher, or the termination of a teacher’s designation as an administrator in compliance with the requirements of natural justice and the provisions of the Education Act. To that end, the procedures herein are intended to guide the hearing process to ensure compliance with the Education Act and that the principles of fairness and natural justice are met.

### Procedures

#### 1. Hearings by Oral or Written Submissions

- 1.1. It is the responsibility of the Associate Superintendent overseeing Human Resources to recommend to the Superintendent, the suspension or termination of a contract of employment of a teacher, or the termination of a teacher’s designation as an administrator and to notify the teacher of the right to a hearing. It is the responsibility of the Superintendent to hold a hearing if requested and/or when required. Where circumstances warrant, the responsibilities of the Superintendent or Associate Superintendent overseeing Human Resources as set out in these procedures may be performed by their respective designates, except that the decision to suspend or terminate a contract of employment of a teacher or to terminate a teacher’s designation shall not be delegated by the Superintendent.
- 1.2. Hearings may be conducted through oral submissions or through the receipt of written submissions of the parties.
- 1.3. In the case of hearings by way of oral submissions, the teacher will normally be present in person.
- 1.4. In the case of hearings by way of receipt of written submissions where the teacher will not be present in person, the Superintendent shall hold a preliminary meeting based upon the recommendation of the Associate Superintendent overseeing Human Resources to determine whether this method of hearing procedure shall be used.
  - 1.4.1. When a hearing is proposed to be conducted through the receipt of written submissions of the parties, the Associate Superintendent overseeing Human Resources shall provide to the Superintendent a recommendation in writing, with reasons, to that effect.
  - 1.4.2. When recommending that a hearing should be conducted through the receipt of written submissions, consideration of the availability of the teacher, the teacher’s representative, or both, to attend at an oral hearing, any prior adjournment of a scheduled oral hearing, and any other relevant information may be taken into account by the Associate Superintendent overseeing Human Resources acting in good faith.
  - 1.4.3. The written recommendation of the Associate Superintendent overseeing Human Resources shall be deliberated in private by the Superintendent.
  - 1.4.4. In so doing, the Superintendent may call upon independent legal advisors to assist on points of law or in the drafting of a decision.
  - 1.4.5. The decision of the Superintendent as to the written recommendation shall be communicated in writing, with reasons, as soon as possible to the Associate Superintendent overseeing Human Resources and to the teacher.

- 1.4.6. Where the decision of the Superintendent is to proceed with a hearing through the receipt of written submissions and the teacher appears in person, on the day of the hearing, the hearing may, if feasible, proceed by way of oral submissions.
- 1.5. In making a decision to proceed with a hearing by way of written submissions, the Superintendent shall take into account: (1) that the preference for holding a hearing is by way of oral submissions; (2) that as a general rule, a hearing by way of oral submissions ought to be held within 30 days of a suspension, recommendation for dismissal, or removal of an administrative designation matter; (3) that where delays are encountered with the scheduling of a hearing by way of oral submissions, then a hearing by way of written submissions shall normally proceed within sixty (60) days of the last proposed oral hearing date to the teacher by the Associate Superintendent overseeing Human Resources; and (4) that where for whatever reason a teacher fails to attend in person on the day of a scheduled oral hearing or fails to provide written submissions for the day of a scheduled written submission hearing, the Superintendent may, in taking into account all relevant considerations and exercising reasonable discretion, decide to proceed with the hearing in the absence of the teacher or the written submissions.

## 2. Oral Submission Procedures

- 2.1. In the case of a hearing to be conducted by way of oral submissions, the Associate Superintendent overseeing Human Resources shall provide to the teacher written notification of:
  - 2.1.1. The date, time, and location of the hearing;
  - 2.1.2. The recommendation and reasons for the action contemplated by the Associate Superintendent overseeing Human Resources;
  - 2.1.3. The opportunity to receive and examine within a reasonable time prior to the hearing, supporting documentation and other material, including these procedures, upon which the administration shall rely and present at the hearing (excluding any presentation or written submission);
  - 2.1.4. The opportunity for the teacher to attend the hearing and have a representative present; and
  - 2.1.5. The requirements, to be complied with, that the teacher provide to the Associate Superintendent overseeing Human Resources 10 days prior to the hearing, the supporting documentation and material upon which the teacher shall rely and present at the hearing (excluding any presentation or written submission), any preliminary objections for the Superintendent to consider at the hearing and written notification of the names of counsel, representatives to accompany the teacher at the hearing and witnesses being called to testify on behalf of the teacher, including whether they are experts.
- 2.2. The Associate Superintendent overseeing Human Resources may be accompanied by counsel who may partake and make submissions during the hearing, and may bring witnesses, and shall notify the teacher of the names of counsel and any witnesses, including whether they are expert witnesses, 5 days prior to the commencement of the hearing.
- 2.3. The Associate Superintendent overseeing Human Resources shall ensure that the Superintendent is provided with all available supporting documentation and material for review where possible, 5 days prior to the date of commencement of the hearing, or during the hearing.
- 2.4. A hearing shall be conducted at a private meeting before the Superintendent where the Superintendent may, but is not required to, record the hearing by electronic means in which case the parties shall be advised by the Superintendent at the commencement of the hearing.
- 2.5. The Superintendent shall introduce all parties, representatives, and witnesses at the hearing.
- 2.6. The Superintendent shall declare any conflict of interest at the earliest possible opportunity following distribution of documentation, either before or at the hearing and advise of the designate who will replace the Superintendent and hold the hearing.
- 2.7. Questions to clarify the evidence of any party or witness shall be allowed during the hearing, but no cross-examination of witnesses shall occur.
- 2.8. The sequence of the hearing shall involve:
  - 2.8.1. consideration of any conflicts of interest;
  - 2.8.2. consideration of any preliminary objections;
  - 2.8.3. written and oral submissions by the Associate Superintendent overseeing Human Resources including any evidence by witnesses, where appropriate;
  - 2.8.4. written and oral submissions by the teacher, including any evidence by witnesses, where appropriate;

- 2.8.5. the opportunity for the Associate Superintendent overseeing Human Resources to respond to the teacher's submissions;
- 2.8.6. the opportunity for the teacher to respond to the Associate Superintendent overseeing Human Resources' submissions;
- 2.8.7. the opportunity for the Superintendent to ask questions of both parties and any of their witnesses;
- 2.8.8. the opportunity for the Associate Superintendent overseeing Human Resources to make final comments; and
- 2.8.9. the opportunity for the teacher to make final comments.
- 2.9. Following the presentation of the information above, all persons other than the Superintendent shall be asked to leave the room, and the Superintendent shall deliberate in private without assistance from administration, taking into account the following:
  - 2.9.1. The Superintendent may call upon independent legal advisors to assist the Superintendent on points of law or in the drafting a decision;
  - 2.9.2. If the Superintendent requires further information or clarification, the parties shall be reconvened and a request for further information or clarification shall be made in the presence of both parties;
  - 2.9.3. If any information requested is not readily available, the Superintendent may request a recess, or if necessary, an adjournment of the hearing to a later date; and,
  - 2.9.4. In the case of an adjournment, no discussion whatsoever of the matters heard at the hearing may take place between the Superintendent and the parties, their respective counsel, representatives or witnesses, the Associate Superintendent overseeing Human Resources, or other members of administration until the hearing is reconvened.
- 2.10. The Superintendent shall reach a decision in the matter.
- 2.11. The Superintendent shall reconvene the parties to the hearing and indicate to the parties the decision reached in the matter.
- 2.12. All documentation, including any recording by electronic means, that is related to the hearing shall be returned to the Associate Superintendent overseeing Human Resources immediately upon conclusion of the hearing and shall be retained or destroyed in accordance with legal requirements.
- 2.13. Upon declaring the hearing adjourned, the Superintendent shall ensure that the teacher and the Associate Superintendent overseeing Human Resources are provided with written notification of the decision as soon as possible, and where the decision is not favourable to the teacher, advise of any right of the teacher to undertake an appeal of the decision under the Education Act.

### 3. Written Submission Procedures

- 3.1. In the case of a hearing to be conducted by receipt of written submissions, the Superintendent shall advise the Associate Superintendent overseeing Human Resources and the teacher the following:
  - 3.1.1. the time and place of the hearing;
  - 3.1.2. the date on which the Associate Superintendent overseeing Human Resources shall provide to the teacher the supporting documentation and other material to be presented at the hearing, including these procedures but excluding any presentations, submissions or preliminary objections, which shall be 20 days prior;
  - 3.1.3. the date on which the teacher shall provide the Associate Superintendent overseeing Human Resources the supporting documentation and other material of the teacher to be presented at the hearing, but excluding any presentations, submissions, or preliminary objection, which shall be 15 days prior to the hearing;
  - 3.1.4. the date on which the Associate Superintendent overseeing Human Resources and the teacher shall provide their written submissions to each other, including any preliminary objections they may have for the Superintendent to consider, which shall be 10 days prior to the hearing;
  - 3.1.5. the date on which the Associate Superintendent overseeing Human Resources and the teacher shall provide their written replies to the written submissions of each other, which shall be 5 days prior to the hearing;
  - 3.1.6. that where dates for providing all forms of documentation by either party fall on a weekend or statutory holiday, such documentation shall be provided on the next business day; and,
  - 3.1.7. that deadlines established for providing information, documents, materials, and submissions shall be followed.

- 3.2. The Associate Superintendent overseeing Human Resources shall provide to the Executive Assistant for the Superintendent the supporting documentation and materials of both parties, and their respective preliminary objections, written submissions and replies 3 days prior to the date of commencement of the hearing;
- 3.3. The Executive Assistant for the Superintendent shall ensure that all such documentation received from the Associate Superintendent overseeing Human Resources is provided as soon as possible to the Superintendent on the date of the hearing prior to its commencement or, where the documentation is voluminous and where the parties agree, on a date prior to the commencement of the hearing.
- 3.4. A written submission hearing shall be conducted at a private meeting before the Superintendent where the Superintendent may record any portion of the meeting that is deemed reasonable by electronic means.
- 3.5. The sequence of the written submission hearing shall be:
  - 3.5.1. Consideration of any conflicts of interest;
  - 3.5.2. Consideration of any preliminary objections, including specifically any objections to the decision of the Superintendent to hold the hearing by way of written submissions;
  - 3.5.3. Consideration of the written submissions of the Associate Superintendent overseeing Human Resources;
  - 3.5.4. Consideration of the written submissions of the teacher;
  - 3.5.5. Consideration of the reply submissions of the Associate Superintendent overseeing Human Resources; and
  - 3.5.6. Consideration of the reply submissions of the teacher.
- 3.6. The Superintendent shall review and consider the information above, and deliberate in private without assistance from administration, taking into account the following:
  - 3.6.1. The Superintendent may call upon independent legal advisors to assist the Superintendent on points of law or in the drafting of a decision regarding any preliminary objections and the written and reply submissions;
  - 3.6.2. If the Superintendent requires further information or clarification, both parties shall be notified in writing of the respective request. If any information requested is not readily available, the Superintendent may request a recess, or if necessary, an adjournment of the hearing to a later date; and,
  - 3.6.3. In the case of an adjournment, no discussion whatsoever of the matters being assessed at the hearing may take place between the Superintendent and, the parties, their respective counsel, representatives or witnesses, the Associate Superintendent overseeing Human Resources, or other members of administration until the hearing is reconvened.
- 3.7. The Superintendent shall reach a decision in the matter.
- 3.8. All documentation, including any recording by electronic means, that is related to the hearing shall be returned to the Associate Superintendent overseeing Human Resources immediately upon conclusion of the hearing and shall be retained or destroyed in accordance with legal requirements.
- 3.9. Upon the conclusion of the hearing, the Superintendent shall ensure that the teacher and the Associate Superintendent overseeing Human Resources are provided with written notification of the decision as soon as possible, and where the decision is not favourable to the teacher, the teacher shall be advised by the Superintendent of any right of the teacher to undertake an appeal of the decision under the Education Act.